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APPLICATION NO.	FILING DATE:	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,947	05/28/2002	Chin-Chuan Huang	WISP0014USA	2396

27765 7590 10/15/2003

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

EXAMINER

CHANG, YEAN HSI

ART UNIT	PAPER NUMBER
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2835

DATE MAILED: 10/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-10 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of copending Application No. 09/683,962 (published as US 2003/0063433 A1). Although the conflicting claims are not identical, they are not patentably distinct from each other because the optical disk drive module claimed by the current application is essentially similar to the module claimed by application'962.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

3. Applicant's arguments filed 5 August 2003 have been fully considered but they are not persuasive.

Applicant argues " '962 discloses an electro-mechanical system that causes the drive carrier to swing away from the chassis module, while the instant claims disclose a purely mechanical system to perform this function. The claimed inventions are thus clearly different from each other and are not essentially similar".

The instant application claims an engaging switch which could be either a mechanical or electro-mechanical switch. An electro-mechanical switch claimed in application '962, is well known in a control system as evidenced by Mitchell et al. (US 5,305,180). It certainly would have been obvious to one having ordinary skill in the related art at the time the invention was made to select an electro-mechanical switch as an engaging switch in the device.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Correspondence

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yean-Hsi Chang whose telephone number is (703) 306-5798. The examiner can normally be reached on 07:30-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on (703) 308-4815. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3431 for regular communications and for After Final communications. There are RightFAX numbers and provide the fax sender with an auto-reply fax verifying receipt by the USPTO: Before-Final (703-872-9318) and After-Final (703-872-9319).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-8558.

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Yean-Hsi Chang

Patent Examiner

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September 30, 2003


DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
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